

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EARL COLLINS,

Plaintiff,

v.

CASE NO. 2:06-CV-12382
HONORABLE AVERN COHN

CITY OF DETROIT, SERGEANT
GARY DIAZ,

Defendants.

/

**ORDER OF PARTIAL SUMMARY DISMISSAL
AND DIRECTING SERVICE UPON DEFENDANT DIAZ**

I.

This is a civil rights case under 42 U.S.C. § 1983. Plaintiff Earl Collins, proceeding pro se and in forma pauperis, is a state prisoner currently confined at the Gus Harrison Correctional Facility in Adrian, Michigan. Defendants are the City of Detroit and Detroit Police Sergeant Gary Diaz. Plaintiff claims his constitutional rights were violated when he was assaulted by defendant Diaz while confined at the 9th Precinct in Detroit, Michigan. Plaintiff seeks monetary damages and other appropriate relief.

II.

Under the Prison Litigation Reform Act of 1996, the Court is required to sua sponte dismiss an in forma pauperis complaint before service on a defendant if it determines that the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. 42 U.S.C. § 1997(e)(c); 28 U.S.C. § 1915(e)(2)(B). The Court is similarly

required to dismiss a complaint seeking redress against government entities, officers, and employees which it finds to be frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A.

Despite the liberal pleading standard accorded pro se plaintiffs, plaintiff's § 1983 claim against defendant City of Detroit must be dismissed because plaintiff has failed to state allegations of wrongdoing against the City of Detroit. Plaintiff must allege the personal involvement to state a claim under § 1983. Plaintiff has not done so with respect to the City of Detroit. The mere fact that the City of Detroit employs Sergeant Diaz is insufficient to state a claim for relief under § 1983. As such, plaintiff's claim against the City of Detroit must be dismissed. Plaintiff's claim against defendant Diaz, however, is not subject to summary dismissal.

III.

For the reasons stated above, the City of Detroit is DISMISSED under 28 U.S.C. §§ 1915(e)(2) and 1915A(b).

The complaint against defendant Diaz, and a copy of this order, shall be served upon defendant Diaz by the United States Marshal without prepayment of costs.

SO ORDERED.

Dated: May 30, 2006

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 30, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160